

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1693

AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-2.1-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

Sec. 2. "Broker" means:

(1) a person who:

(A) is not a common carrier or contract carrier; ~~of passengers;~~

(B) is not a bona fide employee or agent of a common or contract carrier; ~~of passengers;~~ and

(C) as principal or agent, sells or offers to sell ~~passenger~~ transportation service subject to regulation under this article;

or

(2) a person who negotiates for, or professes to be, by solicitation, advertisement, or otherwise, a person who sells, provides, furnishes, contracts, or arranges for ~~passenger~~ transportation service subject to regulation under this article.

SECTION 2. IC 8-2.1-17-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: **Sec. 7.5.**

"Freight forwarder" means any person that:

(1) holds itself out to the general public (other than as a pipeline, rail, motor, air, or water carrier) as a provider of transportation of property for compensation; and

(2) in the ordinary course of its business:

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- (A) assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for breakbulk and distribution operations of the shipments;
- (B) assumes responsibility for the transportation from the place of receipt to the place of destination; and
- (C) uses a carrier subject to this article for any part of the transportation from the place of receipt to the place of destination.

SECTION 3. IC 8-2.1-17-9.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: **Sec. 9.1. "Leasing company" means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.**

SECTION 4. IC 8-2.1-20-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:
Sec. 4. This chapter applies to:

- (1) persons engaged in the interstate transportation of passengers, property, or household goods over public highways in Indiana;
- (2) **brokers;**
- (3) **freight forwarders; and**
- (4) **leasing companies.**

SECTION 5. IC 8-2.1-20-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:
Sec. 5. (a) Except as provided in subsection (b), a motor carrier may not operate motor vehicles upon any public highway in interstate commerce under a certificate of public convenience and necessity or permit issued to the carrier by the ~~Interstate Commerce Commission~~ **United States Department of Transportation** until the carrier has:

- (1) registered the certificate or permit with the department annually in the form and manner required by the department; and
- (2) been issued an acknowledgment by the department.

An acknowledgment issued under this subsection remains in effect until the acknowledgment is amended, suspended, canceled, revoked, or expires.

(b) A certificate of authority or permit issued before July 1, 1963, to an interstate common or contract carrier continues in effect as granted or amended. A certificate of authority or permit to which this subsection applies must be registered with the department in the form and manner required by the department. Upon registration by a motor carrier under subsection (a), the department shall issue an

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acknowledgment.

(c) An interstate certificate of registration or permit, or an acknowledgment of a certificate or permit, may be issued by the department without a public hearing.

(d) A motor carrier subject to this chapter may not operate motor vehicles within exempt commercial zones unless the carrier has registered with the department under this section.

SECTION 6. IC 8-2.1-20-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:
Sec. 7. Before operating a motor vehicle on the public highways of this state in the interstate transportation of property or passengers, the person who operates the motor vehicle must register under the ~~single state registration system~~ **unified carrier registration system** established under ~~49 U.S.C. 11506~~ **49 U.S.C. 13908**.

SECTION 7. IC 8-2.1-20-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:
Sec. 9. **(a) Except as provided in subsection (b)**, this chapter does not affect the reciprocity laws between states concerning license plates on commercial motor vehicles.

(b) If there is a conflict between this chapter and the unified carrier registration system established under 49 U.S.C. 13908 et seq. and the regulations adopted by the United States Secretary of Transportation under 49 U.S.C. 13908 et seq., the federal statute and regulations control.

SECTION 8. IC 8-2.1-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:
Sec. 1. Except as provided in section 2.1 of this chapter, this chapter applies to the regulation of the following persons:

- (1) A common carrier that professes to the general public to engage in the transportation by motor vehicle of passengers **or household goods** for compensation.
- (2) A contract carrier that engages in transportation by motor vehicle of passengers **or household goods**, for compensation (other than transportation provided by a common carrier described in subdivision (1)) under continuing contracts with one
 - (1) person or a limited number of persons for:
 - (A) the furnishing of transportation services through the dedication of motor vehicles for a continuing period of time to the exclusive use of each person served; or
 - (B) the furnishing of transportation services designed to meet the distinct need of each individual customer.
- (3) A broker of transportation services provided by a motor carrier

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described in subdivision (1) or (2).

(4) A common carrier that professes to the general public to engage in the transportation of household goods.

(5) A contract carrier that engages in transportation of household goods for compensation under continuing contracts with at least one (1) person for:

(A) the furnishing of transportation services through the dedication of motor vehicles for a continuing period for the exclusive use of each person served; or

(B) the furnishing of transportation services designed to meet the needs of each customer.

SECTION 9. IC 8-2.1-22-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:
Sec. 7. (a) The department may, ~~upon recommendation of the attorney general~~, subject to the approval of the governor, enter into an agreement or understanding with the ~~Interstate Commerce Commission~~, **United States Department of Transportation**, any other appropriate agency of federal government, or ~~with~~ any other department or agency of another state, for the purpose of more effective ~~economic~~ regulation of motor carriers.

(b) In the furtherance of uniformity in the regulation of motor carriers, the department may by order or rule adopt orders, standards, or rules and regulations of the ~~Interstate Commerce Commission~~, **United States Department of Transportation**, any other appropriate agency of the federal government, or another state or states as they affect motor carriers, whether or not specifically referred to under this chapter.

SECTION 10. IC 8-2.1-22-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:
Sec. 33. A person who is engaged in the intrastate transportation of passengers or household goods must register under the ~~single state registration system~~ **unified carrier registration system** in accordance with rules adopted by the department under IC 4-22-2 before operating a motor vehicle upon a public highway located in Indiana.

SECTION 11. IC 8-2.1-24-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:
Sec. 1. This chapter applies to the certification of a motor carrier providing intrastate transportation by motor vehicle of property **or passengers** for compensation.

SECTION 12. IC 8-2.1-24-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:
Sec. 3. Except as provided in section 18 of this chapter, this chapter

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does not apply to the following:

- (1) Motor vehicles used exclusively for carrying United States mail.
- (2) Motor vehicles while being used or operated under the control, direction, and supervision of:
 - (A) the United States government, the state, or a political subdivision; or
 - (B) the board of trustees of a state institution.
- (3) Motor vehicles while transporting supplies, livestock feed ingredients, fertilizer, or fertilizing materials that are in transit to or from farms.
- (4) Motor vehicles:
 - (A) controlled and operated by a farmer when used in the transportation of the farmer's agricultural commodities and products of those commodities or in the transportation of supplies to the farm;
 - (B) controlled and operated by a nonprofit agricultural cooperative association (or by a federation of agricultural cooperative associations if the federation does not possess greater powers or purposes than the cooperative associations);
 - (C) used in carrying property consisting of livestock or agricultural commodities (not including manufactured products) if the motor vehicles are not used in carrying:
 - (i) other property;
 - (ii) agricultural commodities; or
 - (iii) passengers;
 for compensation; or
 - (D) used in carrying livestock feed or feed ingredients, if those products are transported to a site of agricultural productions or to a business enterprise engaged in the sale of agricultural goods to a person engaged in agricultural production.

This chapter shall not be construed to apply to motor vehicles owned, leased, controlled, or operated by a nonprofit cooperative association, either incorporated or unincorporated, that was in existence on July 6, 1961.

- (5) The casual, occasional, or reciprocal transportation of household effects or furniture for compensation, not including the transportation for hire of new household effects or furniture to or from a factory, warehouse, or store, by a person who does not otherwise engage in the type of transportation for compensation or who is not required by this chapter to hold a certificate or permit to engage in the transportation or operation for hire who

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does not profess to engage in the business of transporting household effects or furniture for hire.

~~(6)~~ **(5)** Motor vehicles, commonly known as armored cars, used exclusively to transport, under written bilateral contract, coin, currency, bullion, securities, precious metals, jewelry, precious stones, money, legal tender, stocks and bonds, negotiable and nonnegotiable instruments and securities, postage and revenue stamps, and other valuable documents and rare objects.

~~(7)~~ Trucks with a declared gross weight of not more than forty-eight thousand ~~(48,000)~~ pounds; transporting nonliquid bulk or bag fertilizers.

~~(8)~~ Motor vehicles while being used to transport chemicals that are used to melt ice and packed snow on roads and streets if the chemicals are owned by and being delivered to the state or a political subdivision for use on roads and streets.

~~(9)~~ Trucks with a declared gross weight of not more than forty-six thousand ~~(46,000)~~ pounds transporting aggregate materials (mineral or rock fragments) in bulk when the person providing the transportation owns or leases not more than one ~~(1)~~ truck for those purposes.

~~(10)~~ Motor vehicles used for the transportation of household goods.

SECTION 13. IC 8-2.1-24-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

Sec. 4. The department may:

- (1) certify a motor carrier providing transportation of property **or passengers** for compensation; and
- (2) regulate and supervise safety, insurance, methods, and hours of operation of a motor carrier providing transportation of property **or passengers**.

SECTION 14. IC 8-2.1-24-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

Sec. 11. The department may, ~~upon recommendation of the attorney general; and~~ subject to the approval of the governor, enter into an agreement or understanding with the ~~Interstate Commerce Commission; United States Department of Transportation or~~ any other appropriate agency of the federal government, another Indiana department or agency, or an agency of another state for the purpose of more effective supervision of safety and responsible transportation of **property and passengers**, intrastate.

SECTION 15. IC 8-2.1-24-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]:

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Sec. 12. The department may by rules adopted under IC 4-22-2 adopt orders, standards, or regulations of the ~~Interstate Commerce Commission~~, **Federal Motor Carrier Safety Administration**, any other appropriate agency of the federal government, or another state as the orders, standards, or regulations affect motor carriers, whether or not specifically referred to under this chapter.

SECTION 16. IC 8-2.1-24-20, AS AMENDED BY P.L.176-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 20. Before a motor carrier engaged in the transportation of property **or passengers** for compensation may operate a motor vehicle upon a public highway providing intrastate transportation, the motor carrier must be properly registered as required under the ~~single state registration system~~ **unified carrier registration system** in accordance with rules adopted by the department under IC 4-22-2. This section does not apply to a person exclusively engaged in the private transportation of nonhazardous property.

SECTION 17. IC 8-2.1-24-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: Sec. 21. A motor carrier shall display a **United States Department of Transportation number or any other** identification in the method required by the department on or in each motor vehicle the motor carrier operates.

SECTION 18. IC 9-18-2-26, AS AMENDED BY P.L.210-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. (a) License plates shall be displayed as follows:

- (1) For a motorcycle, trailer, semitrailer, or recreational vehicle, upon the rear of the vehicle.
- (2) For a tractor **or dump truck**, upon the front of the vehicle.
- (3) For every other vehicle, upon the rear of the vehicle.

(b) A license plate shall be securely fastened, in a horizontal position, to the vehicle for which the plate is issued:

- (1) to prevent the license plate from swinging;
- (2) at a height of at least twelve (12) inches from the ground, measuring from the bottom of the license plate;
- (3) in a place and position that are clearly visible;
- (4) maintained free from foreign materials and in a condition to be clearly legible; and
- (5) not obstructed or obscured by tires, bumpers, accessories, or other opaque objects.

(c) The bureau may adopt rules the bureau considers advisable to

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enforce the proper mounting and securing of license plates on vehicles consistent with this chapter.

SECTION 19. IC 9-28-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) The department of state revenue, on behalf of the state, may enter into reciprocal agreements providing for the registration of vehicles on an apportionment or allocation basis with the proper authority of any state, any commonwealth, the District of Columbia, a state or province of a foreign country, or a territory or possession of either the United States or of a foreign country.

(b) To implement this chapter, the state may enter into and become a member of the International Registration Plan or other designation that may be given to a reciprocity plan developed by the American Association of Motor Vehicle Administrators.

(c) The department of state revenue may adopt rules under IC 4-22-2 to carry out and enforce the provisions of the International Registration Plan or any other agreement entered into under this chapter.

(d) If the state enters into the International Registration Plan or into any other agreement under this chapter, and if the provisions set forth in the plan or other agreements are different from provisions prescribed by law, then the agreement provisions prevail.

(e) All payments for the renewal of a fleet of vehicles previously registered under the International Registration Plan are due on or before the fifteenth day of the last month of the registration period preceding the period being renewed.

(f) All payments for billings, other than renewal, issued under the International Registration Plan are due within fifteen (15) days after the mailing date on the billing unless stated otherwise.

~~(e)~~ (g) This chapter constitutes complete authority for the registration of vehicles, including the registration of fleet vehicles, upon an apportionment or allocation basis without reference to or application of any other Indiana law.

(h) A person who fails to comply with subsections (e) and (f), is subject to the penalties and interest imposed under IC 6-8.1-10.

SECTION 20. IC 8-2.1-21 IS REPEALED [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)].

SECTION 21. [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)] **(a) Except as provided in subsection (b), IC 8-2.1-17-2, IC 8-2.1-20-4, IC 8-2.1-20-5, IC 8-2.1-20-7, IC 8-2.1-20-9, IC 8-2.1-22-1, IC 8-2.1-22-7, IC 8-2.1-22-33, IC 8-2.1-24-1, IC 8-2.1-24-3, IC 8-2.1-24-4, IC 8-2.1-24-11,**

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IC 8-2.1-24-12, IC 8-2.1-24-20, and IC 8-2.1-24-21, all as amended by this act, IC 8-2.1-17-7.5 and IC 8-2.1-17-9.1, both as added by this act, and IC 8-2.1-21, as repealed by this act, apply to registrations and fees due after December 31, 2006.

(b) If the effective date for the repeal of the single state registration system established under 49 U.S.C. 11506 is delayed by the Congress of the United States, the provisions provided in subsection (a), as they existed on December 31, 2006, shall be applied in Indiana until the earlier of the following:

(1) The date a state is required to conform to the unified carrier registration system established under 49 U.S.C. 13908 as required by an act of the Congress of the United States or by a regulation of the United States Department of Transportation.

(2) January 1, 2008.

SECTION 22. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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